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Compilation on South Africa

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of the information contained in the reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1][2]

2. The United Nations country team noted the ratification by South Africa of the International Covenant on Economic, Social and Cultural Rights in 2015 and of the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189),[3] in 2013. Noting that the right to education would appear not to be subject to progressive realization, it encouraged South Africa to withdraw its declaration to the Covenant stating that it would give progressive effect to the right to education within the framework of its national education policy and available resources.[4]

3. South Africa had been encouraged to become a party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[5] the Optional Protocol to the Convention on the Rights of the Child on a communications procedure,[6] the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[7] the International Convention for the Protection of All Persons from Enforced Disappearance,[8] the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169),[9] the Convention relating to the

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Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961.[10]

4. In 2016, the Secretary-General regretted the decision of the Government to withdraw from the Rome Statute of the International Criminal Court and expressed the hope that the country would reconsider its decision.[11]

5. The Committee on the Elimination of Racial Discrimination encouraged South Africa to facilitate a visit by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.[12]

6. The country team reported that since the previous cycle of the universal periodic review South Africa had submitted four reports to treaty bodies and had been visited by the Special Rapporteur on violence against women, its causes and consequences.[13]

7. South Africa contributed financially to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in 2012, 2013 (including to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery) and 2015 (including to the United Nations Voluntary Fund for Victims of Torture).[14]

III. National human rights framework[15]

8. The Committee on the Elimination of Racial Discrimination welcomed the enactment of the South African Human Rights Commission Act 40 of 2013[16] and recommended that South Africa implement the recommendations of that institution and that it provide it with adequate financial resources.[17] The Committee on the Rights of the Child recommended that South Africa legally mandate the Commission to appoint a commissioner exclusively dedicated to the rights of the child.[18]

9. The Special Rapporteur on violence against women recommended that South Africa strengthen and ensure adequate resources for State institutions to carry out their mandates with respect to gender equality and violence against women, in particular the Department of Women and the Department of Social Development, and clarify roles and responsibilities.[19]

10. The Committee on the Elimination of Racial Discrimination noted with concern that the classifications used to gather statistical data were from the former apartheid era.[20]

11. The country team reported that South Africa had recognized the need to establish a standing interministerial committee to improve coordination in relation to human rights reporting and follow-up on recommendations.[21]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[22]

12. Regarding the implementation of the recommendation that South Africa speed up the process to develop its national action plan against racism, racial discrimination, xenophobia and related intolerance,[23] the Office of the United Nations High Commissioner for Refugees (UNHCR) commended the Government for having prepared a draft plan and noted that it had been widely circulated for consultation.[24] Noting that the plan focused

mainly on racism, UNHCR recommended that South Africa expand that focus to include xenophobia.[25]

13. The Committee on the Elimination of Racial Discrimination welcomed the Prevention and Combating of Hate Crimes and Hate Speech Bill. It encouraged South Africa to ensure that the bill was in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination and recommended that South Africa expedite its enactment.[26] UNHCR and the country team recommended ensuring that the draft bill was the subject of broad consultations, contemplated the development of guidelines for investigators, prosecutors and judges and included restitution.[27] The Special Rapporteur on violence against women and the country team recommended that South Africa consider enacting hate crime legislation that addressed both the hate dimension of crimes and the sexual orientation of lesbian, gay, bisexual, transgender and intersex victims of gender-based violence.[28]

14. The Committee on the Elimination of Racial Discrimination was concerned about discrimination, xenophobia and racism against non-citizens, including refugees, asylum seekers and migrants, which had resulted in numerous violent attacks leading to deaths and injuries. Violent attacks, notably in 2008 and 2015, had also led to the large-scale displacement of non-citizens and property damage.[29] The Human Rights Committee recommended that South Africa redouble its efforts to prevent and eradicate all manifestations of racism and xenophobia and that it improve policing responses to violence against non-nationals.[30] The Committee on the Elimination of Racial Discrimination recommended taking action to prosecute perpetrators of crimes motivated by racial discrimination and xenophobia[31] and encouraging dialogue within communities in conflict to address the root causes of discrimination and violence.[32]

15. The same Committee was concerned at the rise in hate crimes and hate speech targeting certain ethnic groups and non-citizens, discriminatory statements by State officials and politicians and the increase in the use of social media and the Internet to propagate racist hate speech.[33] It recommended ensuring that all incidents of hate crime and hate speech were investigated and that all alleged perpetrators were prosecuted[34] and conducting educational campaigns to promote tolerance and respect for diversity, with a focus on the roles and responsibilities of journalists and public officials in that regard.[35]

16. The Human Rights Committee expressed concern about the persistence of stigma against persons based on their real or perceived sexual or gender orientation, gender identity or physical diversity and about the fact that such persons were subject to harassment, acts of discrimination, and sexual and physical violence. It recommended that South Africa eradicate such discrimination and violence.[36] The country team recommended that South Africa promote nationwide school policies and guidelines that explicitly promoted sexual diversity and tolerance for different gender identities.[37]

17. The Committee on the Rights of the Child was concerned that the existence of administrative and practical obstacles to obtaining birth registration, including punitive measures for late registration under the Births and Deaths Registration Act, might have negative and discriminatory impacts. It was also concerned that the South African Citizenship Act set disproportionately strict conditions for granting nationality to certain groups of children and that there were reportedly many children who had either migrated to or had been born in South Africa who were undocumented and/or whose births had not been registered.[38] Noting target 16.9 of the Sustainable Development Goals, the Committee recommended that South Africa review and amend all legislation and regulations relevant to birth registration and nationality to ensure their full conformity with the Convention on the Rights of the Child.[39]

2. Development, the environment, and business and human rights[40]

18. The Committee on the Rights of the Child was concerned that activities of business enterprises, in particular those of the extractive industries, had a negative impact on the enjoyment of the rights of the child, including through environmental pollution and the exploitation of child labour.[41] It recommended that South Africa establish and implement regulations to ensure that the business sector complied with international and national human rights, labour, environmental and other standards.[42]

B. Civil and political rights

1. Right to life, liberty and security of person[43]

19. The Committee on the Elimination of Racial Discrimination was alarmed by reports of cases of abductions, killings and dismemberments of persons with albinism, as their body parts were allegedly used for witchcraft purposes. It recommended that South Africa protect persons with albinism from violence, abductions, discrimination and stigmatization, including through action plans.[44]

20. The Human Rights Committee was concerned about reports of excessive and disproportionate use of force by law enforcement officials in the context of public protests that had resulted in the loss of lives.[45] It was also concerned about the slow pace of the investigation into the Marikana incident.[46] It recommended that South Africa revise laws and policies regarding public order policing and the use of force, including lethal force by law enforcement officials, to ensure they were consistent with the International Covenant on Civil and Political Rights, and that it expedite the work of the bodies established by the Ministry of Police to implement the recommendations of the Marikana Commission of Inquiry;[47] ensure that effective investigations were launched into all incidents involving the use of firearms, into all allegations of excessive use of force by law enforcement officers and into the potential liability of the mining company for the Marikana incident;[48] and review the compliance of companies with their responsibilities under all relevant legal standards for operations in the mining sector.[49]

21. The Human Rights Committee was concerned about the number of reported cases of sexual violence, excessive use of force, torture and other forms of ill-treatment against detainees, as well as of deaths resulting from actions of the police and prison officials. It recommended that South Africa ensure that all deaths occurring in detention and all cases of violence committed in State or contract-managed prisons were investigated properly by an independent mechanism.[50]

22. The same Committee welcomed the enactment in 2013 of the Prevention and Combating of Torture of Persons Act, which criminalized torture.[51] The Committee was concerned that the Act did not itself provide for civil claims for redress of torture and recommended that South Africa consider amending the Act with a view to including specific provisions relating to the right to civil redress and remedy for victims.[52]

23. The same Committee was concerned about the poor conditions of detention in some prisons, particularly with respect to overcrowding, among other things.[53] The country team reported that detention centres were 32 per cent over capacity and that overcrowding made prisons dangerous, as it created an environment conducive to the spread of tuberculosis.[54]

24. The Human Rights Committee was also concerned about reports of cases of undocumented migrants detained in police stations and prison facilities, individuals detained at Lindela Repatriation Centre for lengthy periods of time without a warrant and the poor detention conditions at that Centre.[55] It recommended that South Africa ensure that detention pending deportation was applied as a last resort only.[56] The Committee on the

Elimination of Racial Discrimination recommended ending the unlawful detention of asylum seekers and refugees.[57]

25. The Human Rights Committee recommended that South Africa establish a system for the regular and independent monitoring of all places of detention, as well as a confidential mechanism for receiving and processing complaints lodged by persons deprived of their liberty.[58] It also recommended that it reduce overcrowding, particularly by promoting alternatives to detention and by ensuring that persons on remand were not kept in custody for an unreasonable period of time.[59] The country team recommended that South Africa make efforts to ensure that overcrowding in prisons did not have a negative effect on the rights of persons in detention to gain access to adequate health care.[60]

2. Administration of justice, including impunity, and the rule of law[61]

26. The Committee on the Elimination of Racial Discrimination welcomed the information indicating that "equality courts" had been established to end racial discrimination. It was concerned, however, that those courts were being underutilized owing to a lack of public awareness and recommended that South Africa conduct educational campaigns on access to judicial remedies for racial discrimination.[62]

27. The Human Rights Committee was concerned that the recommendations of the Truth and Reconciliation Commission had not been fully implemented, in particular those on the prosecution of perpetrators, the investigation of cases of disappearance and the provision of adequate reparation to all victims, and recommended that South Africa increase its efforts to implement the recommendations of the Commission.[63]

28. The same Committee noted the ruling of the North Gauteng High Court finding the authorities' failure to detain the President of a third country, in June 2015, pursuant to an International Criminal Court arrest warrant, to be inconsistent with the Constitution. The Committee recommended that South Africa ensure compliance with the rulings of domestic courts, including in cases relating to its international treaty obligations.[64]

29. The country team reported that South Africa had been developing a national anti-corruption strategy through a series of consultative workshops.[65]

3. Fundamental freedoms and the right to participate in public and political life[66]

30. The United Nations Educational, Scientific and Cultural Organization (UNESCO) noted that the Protection of State Information Bill had been passed by both chambers of Parliament but had been sent back for reconsideration by the President.[67] Noting that the bill had been the focus of a number of recommendations[68] during the second cycle of the universal periodic review in 2012, the country team recommended that South Africa continue amending and improving the bill, as the text, in its current form, could undermine the right to access to information and freedom of expression.[69]

31. The Human Rights Committee was concerned about reports of threats, intimidation, harassment, excessive use of force and physical attacks by private individuals and police forces against human rights defenders, in particular those working on corporate accountability, land rights and transparency issues, against lesbian, gay, bisexual, transgender and intersex persons and against HIV activists.[70] It also noted with concern reports that law enforcement officers were not demonstrating due diligence in their efforts to ensure accountability for such violations and recommended that South Africa take all measures necessary to protect the rights of human rights defenders and ensure that police officials received adequate training to protect such defenders.[71]

4. Prohibition of all forms of slavery[72]

32. UNHCR welcomed the enactment in 2013 of the Prevention and Combating of Trafficking in Persons Act.[73] The Human Rights Committee recommended that South Africa establish a nationwide identification and referral system for victims.[74] The country team observed that estimating the numbers of child victims of trafficking had proved to be very difficult[75] and recommended following up on the enactment of the Act by formulating a broad and comprehensive national policy framework and plan of action on trafficking, with a particular focus on data on trafficking in children.[76]

33. The Committee on the Rights of the Child expressed concern that criminal law did not address all acts and activities relating to the sale of children as defined in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, such as engaging a child in forced labour, and recommended that South Africa ensure that all acts and activities referred to in the Optional Protocol were covered in its criminal law.[77]

5. Right to privacy

34. The Human Rights Committee was concerned about the relatively low threshold for conducting surveillance and the relatively weak safeguards against unlawful interference in the right to privacy contained in the Regulation of Interception of Communications and Provision of Communication-related Information Act.[78] The Committee was also concerned about reports of unlawful surveillance practices, including mass interception of communications carried out by the National Communications Centre.[79] It recommended that South Africa refrain from engaging in the mass surveillance of private communications without prior judicial authorization, increase the transparency of its surveillance policy and speedily establish independent oversight mechanisms.[80]

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work[81]

35. The Human Rights Committee welcomed the adoption of the Labour Relations Amendment Act of 2014, which provided greater protection for workers placed in temporary employment, but remained concerned at reports that migrant workers employed through labour brokers' services in the mining industry were victims of exploitative labour conditions. It recommended that South Africa outlaw and hold responsible labour brokers involved in the exploitation of workers.[82]

2. Right to social security[83]

36. The country team observed that the policy of South Africa to reduce poverty through the provision of a "social wage package" was intended to reduce the cost of living of the poor. In that regard, it also observed that the social protection system provided a number of grants to South African citizens.[84] Noting that the Government was preparing policy reform proposals for a comprehensive social security system,[85] the country team recommended that it continue to assess the social protection system to identify vulnerable groups that were not gaining access to those programmes and that it ensure effective access to social protection for children in remote and rural areas.[86]

37. The Committee on the Rights of the Child was concerned that access to social security benefits for children had been hampered by administrative barriers[87] and that the amount provided by the Child Support Grant did not meet the needs of a child living in poverty.[88] It recommended that South Africa remove barriers to accessing social security benefits[89] and that it review the amount provided by the Child Support Grant.[90]

3. Right to an adequate standard of living[91]

38. The Committee on the Elimination of Racial Discrimination was concerned about the multiple forms of discrimination faced by black and marginalized ethnic women and girls, who were strongly affected by poverty and lack of access to basic services, in particular housing, education, health care and equal employment opportunities.[92]

39. The country team reported that children were disproportionately affected by poverty: 4 out of 10 children were trapped in chronic poverty.[93] The Committee on the Rights of the Child was concerned about children experiencing food insecurity caused by poverty, food price increases, demographic changes and climate change.[94] It recommended the development and implementation of a framework law on the right to food, as envisaged in the National Policy on Food and Nutrition Security.[95] The country team reported that stunting was worse among the younger age groups[96] and recommended that the Government tackle stunting through targeted programmes that ensured that marginalized children had access to the nutrition they required for healthy growth.[97]

40. The Committee on the Rights of the Child was concerned that many children still did not have access to water and sanitation and were therefore exposed to a heightened risk of ill-health and sexual violence.[98] It recommended that South Africa continue its efforts to ensure access to safe water and sanitation for all households, schools and health facilities.[99]

4. Right to health[100]

41. The Committee on the Rights of the Child was concerned about the disparity in health-care provision between rural and urban areas[101] and about the low quality of the health-care service.[102] It recommended that South Africa strengthen its efforts to reduce disparities in health-care service provision across the country,[103] that it develop a comprehensive and multisectoral policy and a service delivery package on child health[104] and that it improve the quality of health-care services.[105]

42. The country team reported that South Africa had the largest HIV epidemic in the world and took note of efforts made.[106] Although the estimated number of people dying from HIV-related causes each year had decreased, the rate of deaths caused by tuberculosis among persons living with HIV remained high.[107] Gender inequalities were among the structural drivers of the HIV epidemic and increased the vulnerability of girls and women to both HIV and violence.[108] Noting the progress made, the country team referred to reports that stigma affected approximately one third of all people living with HIV.[109]

43. The Human Rights Committee recommended the adoption of a national policy on HIV, sexually transmitted infections and tuberculosis and the implementation of a sexual and reproductive health policy, especially concerning adolescents.[110] The country team recommended reviewing national instruments and oversight bodies to tackle the stigmatization of those infected with HIV.[111] The Committee on the Rights of the Child recommended that South Africa develop policies aimed at addressing the multiple discrimination and violence faced by girls, based on the intersection between violence and HIV/AIDS.[112]

44. The country team reported that despite some progress in the reduction of maternal deaths, South Africa had not met its Millennium Development Goal target and maternal mortality was still relatively high (154 women per 100,000 live births in 2011-2013).[113] In that regard, it noted that young girls and women had been disproportionally affected by HIV. The high number of teenage pregnancies was also a concern, as pregnant adolescents were at a higher risk of maternal death.[114] The Committee on the Rights of the Child recommended that South Africa improve data collection on maternal deaths, including those occurring outside of health facilities,[115] and that it obtain technical guidance from

OHCHR on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal morbidity and mortality.[116]

45. The Committee on the Rights of the Child was concerned at the heightened health risks to which adolescents were exposed to, including the disproportionately high rates of HIV infection due to a lack of access to adolescent-friendly services.[117] It recommended that South Africa enhance the effective implementation of sexual and reproductive health policies and programmes for adolescents.[118]

46. The same Committee noted that infant and child mortality rates had remained high[119] and recommended that South Africa address the poverty and structural inequalities underlying the high rate of child mortality,[120] as well as the high levels of violence, child malnutrition, the prevention and treatment of HIV/AIDS and the promotion of children's and mothers' health, taking note of target 3.2 of the Sustainable Development Goals.[121] The country team recommended that South Africa reinforce efforts to reduce the effects of the three leading causes of neonatal and perinatal deaths: asphyxia, prematurity and neonatal sepsis.[122]

5. Right to education[123]

47. While noting that South Africa had reported that 20 per cent of its budget had been allocated to education, the Committee on the Elimination of Racial Discrimination expressed concern that disparities remained in equal access to quality education and educational resources by all ethnic groups and that educational programmes had not assisted in eliminating racial and xenophobic tensions and barriers.[124] UNESCO made similar observations.[125]

48. The Committee on the Rights of the Child recommended that South Africa improve the transparency, efficiency and accountability of the management of the budget for education,[126] that it improve the quality of education, including the quality and availability of school facilities, educational materials, teaching staff and curricula, prioritizing the most disadvantaged schools,[127] and that it take effective measures to prevent and eliminate school violence committed by both students and educators.[128]

49. The country team reported that there had been a significant decline in attendance rates at the secondary school level[129] and that the effects on girls of teenage pregnancy represented a major challenge.[130] It recommended that South Africa undertake national programmes to retain students in secondary school, especially those in the older age groups, and that it hold broad consultations in the development of a national policy on teenage pregnancy.[131]

50. The Special Rapporteur on violence against women noted the high level of sexual violence against girls in schools perpetrated by both teachers and classmates[132] and recommended that the Department of Basic Education and the South African Council for Educators act jointly in disciplining educators who had committed such acts and impose disciplinary sanctions against teachers or principals who failed to report cases.[133]

D. Rights of specific persons or groups

1. Women[134]

51. The country team reported that the Women's Empowerment and Gender Equality Bill had not been enacted following a decision by Government to review the implementation of existing legislation.[135] In addition, the restructuring of government departments in 2014 had resulted in the suspension of the National Council against Gender-based Violence and in a halt to the development of a multisectoral national strategic plan.[136]

The country team recommended that South Africa revive efforts to develop a comprehensive, multisectoral national strategic plan on gender-based violence and that it assess, debate and promulgate the Women's Empowerment and Gender Equality Bill.[137]

52. The Special Rapporteur on violence against women recommended repealing any remaining legal instruments that discriminated against women in matters relating to marriage and family relations, including the practice of polygamy.[138] The Committee on the Elimination of Racial Discrimination recommended that South Africa take particular note of the multiple forms of discrimination against black and marginalized ethnic women and girls and that it take the measures necessary to prevent such discrimination and increase equal access by such women and girls to services.[139]

53. The Human Rights Committee was concerned that gender-based and domestic violence remained a serious problem and that the conviction rate for such acts was low.[140] The Committee on the Rights of the Child was seriously concerned at the high prevalence of gender-based and sexual violence against children[141] and the low age of the victims.[142] The Special Rapporteur on violence against women noted that the Domestic Violence Act had broadened the definition of domestic violence and provided for victims and others to request protection orders. However, it did not typify domestic violence as a criminal offence.[143] The country team noted that there were no centralized statistics at the national level on the number of incidents of gender-based violence, just the data on sexual offences released by the police annually.[144]

54. The Human Rights Committee recommended ensuring that all such crimes were promptly and thoroughly investigated, that perpetrators were brought to justice and that victims had access to full reparation and means of protection.[145] The Special Rapporteur on violence against women recommended that South Africa urgently provide an adequate budget for the implementation of key measures of the Domestic Violence Act,[146] that it improve the training given to the police on the response to, management of and investigation of domestic violence and sexual offences,[147] that it provide mandatory training to members of the judiciary,[148] that it establish more shelters, in particular in rural areas and informal settlements,[149] and that it expand the collection of data to include all forms of violence against women, including femicides, domestic violence and all types of sexual offences.[150]

55. In the light of the extreme levels of violence committed against women in informal settlements, the Special Rapporteur on violence against women recommended that South Africa consider establishing national inquiries into such violence and the general situation of women and girls in such settlements.[151]

56. The Special Rapporteur noted that the criminalization of prostitution had driven women in prostitution underground, created obstacles to access to services and made them very vulnerable to violence, human rights violations and corruption.[152] The Special Rapporteur recommended that South Africa review relevant legislation and regulations to decriminalize women in prostitution and take a comprehensive approach to addressing the issue.[153]

2. Children[154]

57. The Committee on the Elimination of Racial Discrimination was concerned at the persistence of harmful cultural or traditional practices against women and girls, such as *ukuthwala*, which could be tantamount to forced child marriage.[155] The Committee recommended that South Africa conduct educational campaigns in order to end that practice and encourage the reporting of cases.[156] The Special Rapporteur on violence against women recommended that the Government consider adopting a new consolidated criminal offence to criminalize *ukuthwala*.[157]

58. The Committee on the Rights of the Child was concerned at the high prevalence of harmful practices, including virginity testing, witchcraft, female genital mutilation, violent or harmful initiation rites and intersex genital mutilation.[158] It urged South Africa to ensure that its legislation prohibited all forms of harmful practices carried out on children, including by regulating initiation schools,[159] and to develop and adopt an effective national action plan to eliminate such practices.[160] The Human Rights Committee recommended that South Africa amend the Children's Act with the aim of prohibiting virginity tests on children, irrespective of their age.[161]

59. The Committee on the Rights of the Child was deeply concerned that the Children's Act set the minimum age for marriage at 12 years for girls and 14 years for boys and that the Marriage Act and the Recognition of Customary Marriages Act set different conditions for marriages for girls and boys under 18 years of age.[162] It urged South Africa to harmonize its legislation to ensure that the minimum age for marriage was established at 18 years for both girls and boys.[163]

60. The Human Rights Committee was concerned that corporal punishment in the home was not prohibited, traditionally accepted and widely practised and that it continued to be used in certain schools despite being legally prohibited.[164] The Committee on the Rights of the Child recommended that South Africa expedite the adoption of legislation to prohibit all forms of corporal punishment in the home, including "reasonable chastisement",[165] and that it develop, adopt and implement a national strategy to prevent and eradicate all forms of corporal punishment.[166]

61. The same Committee was concerned at the large number of children who had been deprived of a family environment, including orphans who had lost their parents to AIDS, children who had been abandoned owing to their HIV/AIDS status and unaccompanied or abandoned migrant children.[167] The Committee was also concerned about the systemic constraints faced by the alternative care system owing to the increase in foster care.[168] It recommended that South Africa expedite actions to resolve systemic challenges in the foster care system and come up with sustainable arrangements for alternative care and for monitoring the arrangements.[169] The country team recommended formulating long-term initiatives and solutions to address the foster care system to ensure that foster care orders did not continue to lapse as they had done in previous years.[170]

62. The Committee was also concerned that South Africa had reportedly become a major hub for child sex tourism in Africa[171] and recommended that the Government take all legislative, administrative, social and other measures necessary to prevent and eliminate child sex tourism.[172]

3. Persons with disabilities[173]

63. The Committee on the Rights of the Child recommended that South Africa strengthen the systematic and comprehensive collection of disaggregated data on children with disabilities and utilize that data to develop policy responses that were more evidence-based,[174] that it set up clear baselines, a clear time frame and indicators for the implementation of laws and policies relevant to children with disabilities[175] and that it allocate sufficient technical, human and financial resources for inclusive education.[176]

64. Following the implementation of a flawed process that had led to the deaths of at least 37 persons with psychosocial and intellectual disabilities, several special procedure mandate holders urged the authorities to establish a clear and sustainable deinstitutionalization policy and plan of action.[177]

4. Indigenous peoples

65. The Committee on the Elimination of Racial Discrimination expressed concern at the situation of indigenous peoples who continued to suffer from extreme poverty and marginalization and who faced discrimination and difficulties in the areas of language, education and land redistribution.[178] The Committee recommended implementing the recommendations made by the national human rights institution following its hearings on the rights of indigenous peoples in 2004 and 2016.[179]

66. The Human Rights Committee recommended that South Africa step up efforts to ensure the processing of land restitution claims and consider legislative measures to adequately address the issue of the dispossession of the lands of indigenous peoples prior to 1913.[180]

5. Migrants, refugees and asylum seekers[181]

67. UNHCR noted that in 2015 the country had hosted 1,217,708 persons of concern, including 1,096,063 asylum seekers and 121,645 refugees.[182] The high numbers of asylum applications and the misuse of the asylum system by individuals seeking better opportunities in South Africa continued to affect the fairness and efficiency of that system.[183]

68. The Committee on the Rights of the Child recommended that South Africa expedite the development of a protocol to streamline the delivery of child-protection services to migrant, asylum-seeking and refugee children.[184]

69. UNHCR noted that new immigration regulations that had come into effect in 2014 had introduced measures that would have a significant impact on access to asylum procedures and could also bar certain individuals from entering based on the "first country of asylum" concept. In addition, an amendment to the Refugees Act would impose restrictions on certain rights for asylum seekers, including the right to work for four months pending adjudication of their claim.[185] UNHCR and the country team recommended that South Africa amend the immigration regulations to exclude the "first country of asylum" concept, as it was inconsistent with international and national refugee law, and that it put into place adequate provisions for social welfare pending the adjudication of an asylum claim.[186] The Committee on the Elimination of Racial Discrimination recommended that South Africa speed up its consideration of cases on determining the status of refugees and asylum seekers.[187]

6. Stateless persons[188]

70. The Committee on the Rights of the Child recommended that South Africa put into place regulations to grant nationality to all children who were stateless or were at risk of becoming stateless.[189] UNHCR recommended that South Africa ensure reliable statistics on stateless persons and that it provide administrative assistance to stateless persons regarding documents and certifications.[190]

Notes

[1] Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for South Africa will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/ZASession27.aspx.
[2] For relevant recommendations, see A/HRC/21/16, paras. 124.1-124.18, 124.54-124.55 and 124.57.
[3] See United Nations country team submission for the universal periodic review of South Africa, paras. 6 and 8.
[4] Ibid., paras. 6 and 11.
[5] See CERD/C/ZAF/CO/4-8, para. 31, and CCPR/C/ZAF/CO/1, para. 11.
[6] See CRC/C/ZAF/CO/2, para. 75, and country team submission, para. 11.
[7] See CERD/C/ZAF/CO/4-8, para. 31, and country team submission, para. 11.
[8] Ibid.
[9] See CERD/C/ZAF/CO/4-8, para. 31, and CRC/C/ZAF/CO/2, para. 66 (e).
[10] See CRC/C/ZAF/CO/2, para. 32 (f), and UNHCR submission for the universal periodic review on South Africa, p. 6.
[11] See www.un.org/sg/en/content/sg/statement/2016-10-24/secretary-general-south-africa%E2%80%99s-withdrawal-international-criminal.
[12] See CERD/C/ZAF/CO/4-8, para. 28.
[13] See country team submission, paras. 7 and 10.
[14] See OHCHR, "Funding", in *OHCHR Report 2012*, p. 117; "Funding", in *OHCHR Report 2013*, p. 131; and "Funding", in *OHCHR Report 2015*, p. 65.
[15] For relevant recommendations, see A/HRC/21/16, paras. 124.26-124.28.
[16] See CERD/C/ZAF/CO/4-8, para. 4 (b).
[17] Ibid., para. 9.
[18] See CRC/C/ZAF/CO/2, para. 16 (a).
[19] See A/HRC/32/42/Add.2, para. 85 (a). See also A/HRC/32/42/Add.5.
[20] See CERD/C/ZAF/CO/4-8, para. 6.
[21] See country team submission, para. 9.
[22] For relevant recommendations, see A/HRC/21/16, paras. 124.22, 124.29-124.46, 124.50-124.51, 124.75-124.87 and 124.150-124.151.
[23] For the relevant recommendation, see A/HRC/21/16, para. 124.37 (Namibia).
[24] UNHCR submission, p. 2. See also country team submission, para. 12, and CERD/C/ZAF/CO/4-8, para. 4 (c).
[25] UNHCR submission, p. 3.
[26] See CERD/C/ZAF/CO/4-8, para. 13. See also CCPR/C/ZAF/CO/1, para. 15.
[27] Country team submission, para. 14. See also UNHCR submission, p. 3.
[28] See A/HRC/32/42/Add.2, para. 83 (c), and country team submission, para. 27. See also A/HRC/32/42/Add.5.
[29] See CERD/C/ZAF/CO/4-8, para. 26 (c).
[30] See CCPR/C/ZAF/CO/1, para. 15.
[31] See CERD/C/ZAF/CO/4-8, para. 28. See also CCPR/C/ZAF/CO/1, para. 15.
[32] See CERD/C/ZAF/CO/4-8, para. 28.
[33] Ibid., para. 12.
[34] Ibid., para. 13.
[35] Ibid. See also para. 28.
[36] See CCPR/C/ZAF/CO/1, paras. 20-21.
[37] See country team submission, para. 27.
[38] See CRC/C/ZAF/CO/2, para. 31 (a)-(c).
[39] Ibid., para. 32 (a).
[40] For relevant recommendations see A/HRC/21/16, paras. 124.111 and 124.119.
[41] See CRC/C/ZAF/CO/2, para. 19.
[42] Ibid., para. 20.
[43] For relevant recommendations, see A/HRC/21/16, paras. 124.20 and 124.52-124.58.
[44] See CERD/C/ZAF/CO/4-8, paras. 20-21. See also A/HRC/31/79, p. 97.
[45] See CCPR/C/ZAF/CO/1, para. 26.

[46] Ibid.
[47] See CCPR/C/ZAF/CO/1, para. 27 (a).
[48] Ibid., para. 27 (c).
[49] Ibid., para. 27 (d).
[50] Ibid., paras. 28-29.
[51] Ibid., para. 3 (a).
[52] Ibid., paras. 22-23.
[53] Ibid., para. 30.
[54] See country team submission, para. 38.
[55] See CCPR/C/ZAF/CO/1, para. 36.
[56] Ibid., para. 37.
[57] See CERD/C/ZAF/CO/4-8, para. 27 (a).
[58] See CCPR/C/ZAF/CO/1, para. 11. See also CERD/C/ZAF/CO/4-8, para. 27 (a).
[59] See CCPR/C/ZAF/CO/1, paras. 30-31 (a).
[60] See country team submission, para. 40.
[61] For relevant recommendations, see A/HRC/21/16, paras. 124.21, 124.23, 124.25 124.93-124.95 and 124.110.
[62] See CERD/C/ZAF/CO/4-8, paras. 29-30.
[63] See CCPR/C/ZAF/CO/1, paras. 12-13. See also CERD/C/ZAF/CO/4-8, paras. 10-11.
[64] See CCPR/C/ZAF/CO/1, paras. 8-9.
[65] See country team submission, para. 36.
[66] For relevant recommendations, see A/HRC/21/16, paras. 124.97-124.107.
[67] UNESCO submission for the universal periodic review of South Africa, para. 77.
[68] For relevant recommendations, see A/HRC/21/16, paras. 124.99-124.107.
[69] See country team submission, paras. 33-34. See also UNESCO submission, para. 90.
[70] See CCPR/C/ZAF/CO/1, para. 40.
[71] Ibid., paras. 40-41.
[72] For relevant recommendations, see A/HRC/21/16, paras. 124.23 and 124.89-124.92.
[73] See UNHCR submission, p. 2. See also CERD/C/ZAF/CO/4-8, para. 4 (a), and CCPR/C/ZAF/CO/1, para. 3 (b). For the relevant recommendation, see A/HRC/21/16, para. 124.89 (Namibia).
[74] See CCPR/C/ZAF/CO/1, para. 33.
[75] See country team submission, para. 42.
[76] Ibid., para. 43.
[77] See CRC/C/OPSC/ZAF/CO/1, paras. 8-9.
[78] See CCPR/C/ZAF/CO/1, para. 42.
[79] Ibid., para. 42.
[80] Ibid., para. 43.
[81] For relevant recommendations, see A/HRC/21/16, paras. 124.21 and 124.108-124.109.
[82] See CCPR/C/ZAF/CO/1, paras. 32-33.
[83] For relevant recommendations, see A/HRC/21/16, paras. 124.109, 124.111 and 124.116-124.117.
[84] See country team submission, para. 44.
[85] Ibid., para. 47.
[86] Ibid., para. 48.
[87] See CRC/C/ZAF/CO/2, para. 55 (b).
[88] Ibid., para. 55 (c).
[89] Ibid., para. 56 (a).
[90] Ibid., para. 56 (c).
[91] For relevant recommendations, see A/HRC/21/16, paras. 124.21, 124.109-124.111, 124.113-124.119 and 124.121.
[92] See CERD/C/ZAF/CO/4-8, para. 22.
[93] See country team submission, para. 46. See also para. 51.
[94] See CRC/C/ZAF/CO/2, para. 53 (b).
[95] Ibid., para. 54 (a).
[96] See country team submission, para. 50.
[97] Ibid., para. 51.
[98] See CRC/C/ZAF/CO/2, para. 57 (a).

[96] Ibid., para. 58 (a).
[97] For relevant recommendations, see A/HRC/21/16, paras. 124.21, 124.109, 124.118, 124.120, 124.122-124.141 and 124.148.
[98] See CRC/C/ZAF/CO/2, para. 47 (a).
[99] Ibid., para. 47 (c).
[100] Ibid., para. 48 (a).
[101] Ibid., para. 48 (b).
[102] Ibid., para. 48 (c).
[103] See country team submission, paras. 54-55.
[104] Ibid., para. 59.
[105] Ibid., para. 58.
[106] Ibid., para. 60. See also CCPR/C/ZAF/CO/1, para. 16.
[107] See CCPR/C/ZAF/CO/1, para. 17 (b).
[108] See country team submission, para. 61.
[109] See CRC/C/ZAF/CO/2, para. 52 (b).
[110] See country team submission, para. 56.
[111] Ibid., para. 57. See also CRC/C/ZAF/CO/2, para. 49 (d).
[112] See CRC/C/ZAF/CO/2, para. 50 (f).
[113] Ibid., para. 50 (g).
[114] Ibid., para. 49 (a).
[115] Ibid., para. 50 (c).
[116] Ibid., para. 27.
[117] Ibid., para. 28 (a).
[118] Ibid., para. 28 (b).
[119] See country team submission, para. 70.
[120] For relevant recommendations, see A/HRC/21/16, paras. 124.21, 124.23, 124.120 and 124.140-124.145.
[121] See CERD/C/ZAF/CO/4-8, para. 18.
[122] See UNESCO submission, para. 86.
[123] See CRC/C/ZAF/CO/2, para. 60 (b).
[124] CRC/C/ZAF/CO/2, para. 60 (c).
[125] CRC/C/ZAF/CO/2, para. 60 (d).
[126] See country team submission, para. 62.
[127] Ibid., para. 63.
[128] Ibid. See also CRC/C/ZAF/CO/2, para. 60 (e).
[129] See A/HRC/32/42/Add.2, para. 19. See also CRC/C/ZAF/CO/2, para. 59 (d).
[130] See A/HRC/32/42/Add.2, para. 84 (b). See also CRC/C/ZAF/CO/2, para. 60 (d).
[131] For relevant recommendations, see A/HRC/21/16, paras.124.20, 124.24, 124.47-124.49, 124.53 and 124.59-124.74.
[132] See country team submission, para. 15.
[133] See country team submission, para. 16. See also A/HRC/32/42/Add.2, para. 83 (a).
[134] See country team submission, para. 20. See also A/HRC/32/42/Add.2, para. 83 (a) and (e).
[135] See A/HRC/32/42/Add.2, para.83 (a). See also A/HRC/32/42/Add.5, CCPR/C/ZAF/CO/1, paras. 18-19, and CRC/C/ZAF/CO/2, para. 39.
[136] See CERD/C/ZAF/CO/4-8, para. 23.
[137] See CCPR/C/ZAF/CO/1, para. 20. See also CRC/C/ZAF/CO/2, para. 37 (c).
[138] See CRC/C/ZAF/CO/2, para. 37 (a).
[139] Ibid., para. 37 (b).
[140] See A/HRC/32/42/Add.2, para. 43. See also A/HRC/32/42/Add.5.
[141] See country team submission, para. 17.
[142] See CCPR/C/ZAF/CO/1, para. 21.
[143] See A/HRC/32/42/Add.2, para. 83 (f). See also A/HRC/32/42/Add.5.
[144] See A/HRC/32/42/Add.2, para. 84 (c). See also A/HRC/32/42/Add.5 and country team submission, para. 37.
[145] See A/HRC/32/42/Add.2, para. 84 (g) (i). See also A/HRC/32/42/Add.5.
[146] See A/HRC/32/42/Add.2, para. 84 (f) (i). See also A/HRC/32/42/Add.5.

[49] See A/HRC/32/42/Add.2, para. 86 (a). See also A/HRC/32/42/Add.5 and country team submission, para. 26.
[50] See A/HRC/32/42/Add.2, para. 83 (b). See also A/HRC/32/42/Add.5 and CRC/C/ZAF/CO/2, para. 38 (b).
[51] See A/HRC/32/42/Add.2, para. 35. See also A/HRC/32/42/Add.5.
[52] See A/HRC/32/42/Add.2, para. 83 (d). See also A/HRC/32/42/Add.5.
[53] For relevant recommendations, see A/HRC/21/16, paras. 124.20, 124.24, 124.53, 124.61, 124.88, 124.111 and 124.126.
[54] See CERD/C/ZAF/CO/4-8, para. 16.
[55] Ibid., para. 17. See also CRC/C/ZAF/CO/2, para. 39.
[56] A/HRC/32/42/Add.2, para. 83 (b). See also A/HRC/32/42/Add.5 and CRC/C/ZAF/CO/2, para. 40 (f).
[57] See CRC/C/ZAF/CO/2, para. 39.
[58] Ibid., para. 40 (a).
[59] Ibid., para. 40 (b) and (d).
[60] See CCPR/C/ZAF/CO/1, paras. 18-19.
[61] See CRC/C/ZAF/CO/2, para. 21.
[62] Ibid., para. 22.
[63] See CCPR/C/ZAF/CO/1, paras. 4-25.
[64] See CRC/C/ZAF/CO/2, para. 36 (a).
[65] Ibid., para. 36 (b).
[66] Ibid., para. 41 (a).
[67] Ibid., para. 41 (b).
[68] Ibid., para. 42 (a).
[69] See country team submission, para. 50.
[70] See CRC/C/OPSC/ZAF/CO/1, para. 24.
[71] Ibid., para. 25 (a).
[72] For relevant recommendations, see A/HRC/21/16, paras. 124.111-124.112.
[73] See CRC/C/ZAF/CO/2, para. 44 (a).
[74] Ibid., para. 44 (c).
[75] Ibid., para. 46 (b).
[76] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20981&LangID=E.
[77] See CERD/C/ZAF/CO/4-8, para. 24.
[78] Ibid., para. 25.
[79] See CCPR/C/ZAF/CO/1, paras. 66-67.
[80] For relevant recommendations, see A/HRC/21/16, paras. 124.38-124.46, 124.58 and 124.146-124.151.
[81] See UNHCR submission, p. 1. See also country team submission, para. 28.
[82] See UNHCR submission, p. 5. See also country team submission, para. 28.
[83] See CRC/C/ZAF/CO/2, para. 62 (b).
[84] See UNHCR submission, p. 5, and country team submission, para. 29.
[85] See UNHCR submission, p. 5, and country team submission, para. 32.
[86] See CERD/C/ZAF/CO/4-8, para. 27 (a).
[87] For relevant recommendations, see A/HRC/21/16, paras. 124.150-124.151.
[88] See CRC/C/ZAF/CO/2, para. 32 (b).
[89] See UNHCR submission, p. 6.